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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

TELESHUTTLE TECHNOLOGIES, LLC,  
TELESHUTTLE CORPORATION, and BTG  
INTERNATIONAL INC.,

Plaintiffs and counter-defendants,

v.

MICROSOFT CORPORATION,

Defendant and counterclaimant.

AND RELATED ACTION.



Case No. C 04-2927 JW (HRL)

**MICROSOFT'S UNOPPOSED  
REQUEST AND ~~[PROPOSED]~~  
ORDER FOR ADMINISTRATIVE  
RELIEF TO FILE A SUPPLEMENTAL  
MARKMAN BRIEF ADDRESSING THE  
FEDERAL CIRCUIT'S RECENT *EN  
BANC* DECISION *PHILLIPS***

1 Pursuant to Local Rule 7-11, defendant Microsoft Corporation (“Microsoft”)  
2 respectfully requests leave to file a supplemental *Markman* brief addressing the Federal  
3 Circuit’s recent *en banc* decision in *Phillips v AWH Corp.*, Nos. 03-1260, 1286 (Fed. Cir.  
4 July 12, 2005). Counsel for Plaintiffs Teleshuttle Technologies, LLC, Teleshuttle  
5 Corporation and BTG International, Inc. (collectively, “BTG”) do not oppose Microsoft’s  
6 request, but simply request an opportunity to respond if appropriate.

7 The parties have briefed and, on two occasions, argued claim construction issues for  
8 the disputed terms and phrases of the nine independent apparatus claims of U.S. Patent Nos.  
9 6,125,388, 6,658,464 and 6,611,862. The Court plans to set a third hearing to address the  
10 impact of Figure 5 on claim construction issues, and the remaining terms and phrases in  
11 dispute. The claim construction proceeding remains open, and pending before the Court.

12 The Federal Circuit on July 12, 2005 issued its long-awaited decision in the *Phillips*  
13 case, clarifying the legal principles that guide claim construction. In particular, the *en banc*  
14 decision rejects the methodology in *Texas Digital Systems, Inc. v Telegenix, Inc.*, 308 F.3d  
15 1193 (Fed. Cir. 2003) and its progeny that greater emphasis be assigned to dictionary  
16 definitions than the written specification and prosecution history. Instead, *Phillips* reaffirms  
17 the approach to claim construction set forth in *Vitronics v. Conceptronic, Inc.*, 90 F.3d 1576  
18 (Fed. Cir. 1996) and reiterates that the specification is “the single best guide to the meaning  
19 of a disputed term,” Slip Op. at 24. *Phillips* further provides that “[p]roperly viewed, the  
20 ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the  
21 entire patent.” *Id.* at 25.

22 Microsoft respectfully requests leave to file a supplemental *Markman* brief applying  
23 the reasoning of *Phillips* to the disputed terms and phrases currently pending before the  
24 Court.

1 Microsoft proposes filing an opening supplemental *Markman* brief of no more than  
2 15 pages, on or before July 22, 2005. Microsoft proposes that BTG file a response  
3 supplemental *Markman* brief, if any, of no more than 15 pages, on or before July 29, 2005.

4  
5 DATED: July 15, 2005

Respectfully submitted,

6 PRESTON GATES & ELLIS LLP

7  
8 By /s/ Michael J. Bettinger  
9 Michael J. Bettinger  
10 Attorneys for Defendant  
11 MICROSOFT CORPORATION

12  
13 **ORDER**

14  
15 GOOD CAUSE APPEARING, the unopposed Administrative Request of Microsoft  
16 Corporation is hereby GRANTED.

17 Defendant, Microsoft shall file its opening supplemental *Markman* brief, limited to  
18 15 pages, on or before July 22, 2005.

19 Plaintiff, BTG shall file its response supplemental *Markman* brief, if any, limited to  
20 15 pages, on or before July 29, 2005.

21  
22 July 20, 2005  
23 Dated: \_\_\_\_\_

/s/ James Ware  
\_\_\_\_\_  
United States District Judge